

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO**

In re: Boban Nikolic) Chapter 13 Case No. 10-13502-M
Gloria Jean Nikolic) Hon. Pat E. Morgenstern-Clarren
Debtors)

**TRUSTEE'S MOTION TO DISMISS CASE
FOR FAILURE TO FUND**

Now comes CRAIG SHOPNECK, the duly appointed, qualified and standing Chapter 13 Trustee herein, and hereby moves this Honorable Court to dismiss the case of the debtors pursuant to Section 1307 of the Bankruptcy Code for failure to fund. In support of his motion, the Trustee makes the following representations to the Court:

1. The debtors filed a petition under Chapter 13 of Title 11, U.S.C. on **April 16, 2010**. The plan of the debtors was confirmed on **February 9, 2011**. The current plan of the debtors calls for payments to the Trustee of **\$940.00 monthly**.
2. The Trustee has reviewed his records and states that as of the date of the hearing on this motion, the debtors will be delinquent **\$2,890.00** through the **April, 2011** payment.
3. Section 1307(c)(1) of the Bankruptcy Code states that unreasonable delay by the debtors that is prejudicial to creditors is grounds for dismissal of the case of the debtors. In addition, Section 1307(c)(6) of the Bankruptcy Code states that material default by the debtors with respect to the terms of a confirmed plan is grounds for dismissal of the case of the debtors. The Trustee believes that the failure of the debtors to maintain payments to the Trustee has unreasonably delayed the administration of the case of the debtors, and ultimately delayed the potential repayment of the creditors of the estate of the debtors. As a result, cause exists to dismiss the case of the debtors.

WHEREFORE, your Trustee, being a proper party in interest, moves this Honorable Court to grant his motion and dismiss the case of the debtors for the reasons cited.

/S/ Craig Shopneck

CRAIG SHOPNECK (#0009552)

Chapter 13 Trustee

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CERTIFICATE OF SERVICE

A copy of the foregoing Motion to Dismiss was served electronically and/or by regular U.S. mail on the 22nd day of April, 2011, to the following:

William J Balena, Attorney for Debtors
511 W Broad St
Elyria OH 44035

Gloria Jean & Boban Nikolic, Debtors
9040 Calista Dr
North Ridgeville OH 44039

/S/ Craig Shopneck

CRAIG SHOPNECK (#0009552)

CS/bas
4/22/11